

---

**From:** "Althouse, Claire" <calthouse@nrdc.org>  
**To:** <mitschele.becky@epamail.epa.gov>  
**Sent:** Thursday, January 10, 2013 3:46 PM  
**Subject:** Conference call this afternoon

Hello Becky,


I just wanted to confirm that we are planning to discuss our FOIA request this afternoon at 5:30 your time. I saw the updated calendar request, so I wanted to make sure we are all on the same page.

Thank you,  
Claire

--

**Claire Althouse**

Policy Analyst • Water Program  
Natural Resources Defense Council  
1314 Second Street  
Santa Monica, CA 90401  
T: (310) 434-2300  
F: (310) 434-2399

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**From:** "Julie Janovsky" <jjanovsky@pewtrusts.org>  
**To:** <Mitschele.Becky@epamail.epa.gov>  
**Sent:** Monday, December 17, 2012 4:06 PM  
**Subject:** Contact information for CAFO Data Strategy  
Hi Becky,

Thanks for the call today, and for sending over the CAFO Data Strategy and any other materials. If sending a disk (I believe that was what you mentioned) the best address is:

Julie Janovsky  
Pew Charitable Trusts  
10<sup>th</sup> Floor  
901 E Street NW  
Washington DC 20004

Thanks again for your time today and that of the whole team. It was much appreciated.

Have a great holiday,

Julie

Julie Janovsky  
Manager, Reforming Industrial Animal Agriculture  
Pew Charitable Trusts  
C. 301.928.3882

[www.pewenvironment.org/animalagriculture](http://www.pewenvironment.org/animalagriculture)  
[www.CAFOPollution.org](http://www.CAFOPollution.org)





---

**From:** <Mitschele.Becky@epamail.epa.gov>  
**To:** "Devine, Jon" <jdevine@nrdc.org>; "Hannah M. Connor" <hconnor@waterkeeper.org>;  
 <ed.hopkins@sierraclub.org>  
**Cc:** <Gilinsky.Ellen@epamail.epa.gov>; <Wade.Alexis@epamail.epa.gov>;  
 <levine.maryellen@epamail.epa.gov>; <Nagle.Deborah@epamail.epa.gov>;  
 <Hill.Randy@epamail.epa.gov>; <Eby.Louis@epamail.epa.gov>  
**Sent:** Friday, July 13, 2012 3:09 PM  
**Attach:** 2012\_07\_12\_09\_16\_36\_MOU.pdf; CAFO\_signed by LPJ.pdf  
**Subject:** EPA takes final action on proposed NPDES CAFO Reporting Rule

To: "Devine, Jon" <jdevine@nrdc.org>, "Hannah M. Connor" <hconnor@waterkeeper.org>, ed.hopkins@sierraclub.org

Cc: Gilinsky.Ellen@epamail.epa.gov, Wade.Alexis@epamail.epa.gov, levine.maryellen@epamail.epa.gov,  
 Nagle.Deborah@epamail.epa.gov, Hill.Randy@epamail.epa.gov, Eby.Louis@epamail.epa.gov

Jon,

Per Ellen's voicemail, please see attached documents for final action on the proposed NPDES CAFO Reporting Rule.

*(See attached file: CAFO\_signed by LPJ.pdf)*

*(See attached file: 2012\_07\_12\_09\_16\_36\_MOU.pdf)*

We are updating our website as we speak to have a pre-publication version posted. The materials will be posted at:

<http://cfpub.epa.gov/npdes/afo/aforule.cfm>

Thanks,  
 Becky Mitschele  
 Water Permits Division, OWM  
 U.S. Environmental Protection Agency  
 Tel: 202.564.6418



---

**From:** <Mitschele.Becky@epamail.epa.gov>  
**To:** <jdevine@nrdc.org>  
**Sent:** Thursday, December 06, 2012 9:10 AM  
**Subject:** FOIA - CAFO data

To: jdevine@nrdc.org

Hi John,

Got your message. There is nothing that you need to do now as far as processing your request. We are transitioning to a new FOIA system (FOIA online) and people are still trying to figure it out.

Sorry for the confusion and look forward to speaking with you, Claire, and Karen on 12/17.

Thx,  
Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418



---

**From:** "Althouse, Claire" <calthouse@nrdc.org>  
**To:** <Mitschele.Becky@epamail.epa.gov>  
**Cc:** "Devine, Jon" <jdevine@nrdc.org>; "Julie Janovsky" <jjanovsky@pewtrusts.org>;  
<ksteuer@pewtrusts.org>  
**Sent:** Friday, January 25, 2013 11:42 AM  
**Attach:** PewNRDC Response to request for more time 1-25-13.pdf  
**Subject:** FOIA: Pew and NRDC response

Dear Ms. Mitschele,


Attached please find Pew and NRDC's response to your Jan. 10, 2013, request for additional time to respond to our FOIA request.

Sincerely,  
Claire Althouse

--

**Claire Althouse**

Policy Analyst • Water Program  
Natural Resources Defense Council  
1314 Second Street  
Santa Monica, CA 90401  
T: (310) 434-2300  
F: (310) 434-2399

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**Yager, Scott**

---

**From:** Althouse, Claire [calthouse@nrdc.org]  
**Sent:** Friday, January 25, 2013 11:42 AM  
**To:** Mitschele, Becky  
**Cc:** Devine, Jon; Julie Janovsky; ksteuer@pewtrusts.org  
**Subject:** FOIA: Pew and NRDC response  
**Attachments:** PewNRDC Response to request for more time 1-25-13.pdf

Dear Ms. Mitschele,


Attached please find Pew and NRDC's response to your Jan. 10, 2013, request for additional time to respond to our FOIA request.

Sincerely,  
Claire Althouse

--

**Claire Althouse**

Policy Analyst • Water Program  
Natural Resources Defense Council  
1314 Second Street  
Santa Monica, CA 90401  
T: (310) 434-2300  
F: (310) 434-2399

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THE  
**PEW**  
CHARITABLE TRUSTS

January 25, 2013

*Via Electronic Mail*

Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
[Mitschele.Becky@epa.gov](mailto:Mitschele.Becky@epa.gov)

Dear Ms. Mitschele,

This letter is in response to the Environmental Protection Agency's (EPA) January 10, 2013 request to extend the deadline for responding to the Natural Resources Defense Council (NRDC) and Pew Environment Group (Pew)'s October 24, 2013 request for documents under the Freedom of Information Act (FOIA).<sup>1</sup> NRDC and Pew have already granted EPA a 5-week extension<sup>2</sup> of FOIA's deadline for response.<sup>3</sup> After considering your request, NRDC and Pew decline to further extend the deadline. We request that you promptly provide all documents that are responsive to the original FOIA request.

EPA's stated reason for requesting additional time is not compelling. EPA does not seek a delay because, despite its best efforts, it was not able to meet the deadlines set forth in FOIA. Instead, EPA seeks additional time because it would prefer not to release documents at this time. We do not agree with EPA's justification, and we must now insist that the agency produce the records without further delay, as FOIA requires.

Sincerely,

**Jon P. Devine, Jr.**  
Senior Attorney  
Natural Resources Defense Council

**Karen Steuer**  
Director, Government Relations  
Pew Environment Group

<sup>1</sup> Letter from Jon Devine and Karen Steuer to the Environmental Protection Agency, Oct. 24, 2012.

<sup>2</sup> Letter from Jon Devine and Karen Steuer to Becky Mitschele, Dec. 21, 2012.

<sup>3</sup> 5 U.S.C. § 552(a)(6); 40 C.F.R. 2.104.



---

**From:** <Mitschele.Becky@epamail.epa.gov>  
**To:** <jdevine@nrdc.org>; <ksteuer@pewtrusts.org>  
**Cc:** <Utting.George@epamail.epa.gov>; <Kupchan.Simma@epamail.epa.gov>;  
<Yager.Scott@epamail.epa.gov>; <calthouse@nrdc.org>; <cjames@nrdc.org>  
**Sent:** Thursday, November 29, 2012 5:11 PM  
**Subject:** FOIA Request regarding Final Action on the proposed CAFO Reporting Rule

To: jdevine@nrdc.org, ksteuer@pewtrusts.org

Cc: Utting.George@epamail.epa.gov, Kupchan.Simma@epamail.epa.gov, Yager.Scott@epamail.epa.gov,  
calthouse@nrdc.org, cjames@nrdc.org

Hi Jon and Karen,

Your FOIA request was routed to our Office today, 11/29/12. I will be coordinating the response to the FOIA.

As noted in my voicemail, we would like to discuss this request with you expeditiously as possible.

Because of your travel and our scheduling here, according to Carol James, the next available time would be December 17th. I have sent around a scheduler as a placeholder at a time that works for us and Jon.

Karen, would this work for you?

Thanks,  
Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418



**From:** <Mitschele.Becky@epamail.epa.gov>  
**To:** "Althouse, Claire" <calthouse@nrdc.org>  
**Cc:** <Utting.George@epamail.epa.gov>; <jdevine@nrdc.org>; <ksteuer@pewtrusts.org>; <Kupchan.Simma@epamail.epa.gov>; <Yager.Scott@epamail.epa.gov>  
**Sent:** Tuesday, January 22, 2013 12:37 PM  
**Subject:** Fw: Conference call this afternoon

To: "Althouse, Claire" <calthouse@nrdc.org>  
 Cc: Utting.George@epamail.epa.gov, jdevine@nrdc.org, ksteuer@pewtrusts.org, Kupchan.Simma@epamail.epa.gov, Yager.Scott@epamail.epa.gov  
 Claire,

In followup to my vociemail last week, I wanted to inquire about where we left off from the 1/10 conference call where NRDC/Pew met with Deborah Nagle, our Permits Division Director.

Have you given additional consideration to our request for 2 additional months for the information related to state cafo data?

Becky Mitschele  
 Water Permits Division, OWM  
 U.S. Environmental Protection Agency  
 Tel: 202.564.6418

----- Forwarded by Becky Mitschele/DC/USEPA/US on 01/22/2013 12:33 PM -----

From: Becky Mitschele/DC/USEPA/US  
 To: "Althouse, Claire" <calthouse@nrdc.org>  
 Date: 01/10/2013 04:49 PM  
 Subject: Re: Conference call this afternoon

Yes. Thanks for confirming. We will open the conference line at 5:30 pm EST. The call information is 1-866-299-3188 and the code is 202-564-6418.

Becky Mitschele  
 Water Permits Division, OWM  
 U.S. Environmental Protection Agency  
 Tel: 202.564.6418

▼ "Althouse, Claire" ---01/10/2013 03:46:19 PM---Hello Becky, I just wanted to confirm that we are planning to discuss our FOIA request this afternoon

From: "Althouse, Claire" <calthouse@nrdc.org>  
 To: Becky Mitschele/DC/USEPA/US@EPA  
 Date: 01/10/2013 03:46 PM  
 Subject: Conference call this afternoon

Hello Becky,

I just wanted to confirm that we are planning to discuss our FOIA request this afternoon at 5:30 your time. I saw the updated calendar request, so I wanted to make sure we are all on the same page.

Thank you,  
 Claire

**Claire Althouse**


Policy Analyst @ Water Program  
Natural Resources Defense Council

1314 Second Street

Santa Monica, CA 90401

T: (310) 434-2300

F: (310) 434-2399

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1/9/2014

---

**From:** <Mitschele.Becky@epamail.epa.gov>  
**To:** <calthouse@nrdc.org>  
**Sent:** Tuesday, December 04, 2012 1:29 PM  
**Subject:** Fw: FOIA - NRDC and Pew on Final Action on CAFO Reporting Rule

To: calthouse@nrdc.org

Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418

----- Forwarded by Becky Mitschele/DC/USEPA/US on 12/04/2012 01:29 PM -----



## FOIA - NRDC and Pew on Final Action on CAFO Reporting Rule

**Mon 12/17/2012 3:00 PM - 4:00 PM**

Location: call in: 1-866-299-3188; code 202-564-6418

Rooms:



This entry has an alarm. The alarm will go off before the entry starts.

Required:

calthouse@nrdc.org, George Utting/DC/USEPA/US@EPA, jdevine@nrdc.org, ksteuer@pewstrusts.org, Simma Kupchan/DC/USEPA/US@EPA

Optional:

Scott Yager/DC/USEPA/US@EPA

### Description





## Yager, Scott

**From:** Devine, Jon [jdevine@nrdc.org]  
**Sent:** Friday, May 03, 2013 6:30 PM  
**To:** Wiedeman, Allison; Gilinsky, Ellen; Mitschele, Becky; Kupchan, Simma; Neugeboren, Steven  
**Subject:** FW: From Greenwire -- WATER POLLUTION: EPA stumbles again in releasing more CAFO documents

Allison—

I received your latest correspondence in the mail today. I will review it promptly. In the meantime, I had a question: am I correct in assuming that the livestock groups, which the article below indicates received the same material as NRDC and others, have also been asked to return/destroy the prior production?

Thank you,  
Jon

Jon Devine  
Senior Attorney, Water Program  
Natural Resources Defense Council  
jdevine@nrdc.org  
(202) 289-2361 (phone)  
(202) 289-1060 (fax)  
Admitted in Massachusetts and the District of Columbia only


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**From:** jdevine@nrdc.org [mailto:jdevine@nrdc.org]  
**Sent:** Friday, May 03, 2013 1:25 PM  
**To:** Devine, Jon  
**Subject:** From Greenwire -- WATER POLLUTION: EPA stumbles again in releasing more CAFO documents

This Greenwire story was sent to you by: [jdevine@nrdc.org](mailto:jdevine@nrdc.org)

Personal message:



**AN E&E PUBLISHING SERVICE**

**WATER POLLUTION: EPA stumbles again in releasing more CAFO documents** *(Friday, May 3, 2013)*

**Amanda Peterka, E&E reporter**

For the second time in a month, U.S. EPA is asking environmental groups to return another set of documents containing personal information of livestock producers.

Allison Wiedeman, chief of the rural branch of EPA's Office of Wastewater Management, told environmental groups in a letter dated Tuesday and obtained by *Greenwire* that the agency accidentally provided too much information on livestock operations in Montana and Nebraska in its package of documents for 30 states.

EPA has sent the environmentalists another version of the documents that redacts names and personal addresses of producers in those states.

The blunder comes as EPA attempts for the second time to respond to a Freedom of Information Act request on confined animal feeding operations (CAFOs) by Earthjustice, the Natural Resources Defense Council and the Pew Charitable Trusts.

The National Cattlemen's Beef Association, the trade group for the beef industry, is calling on EPA's Office of Inspector General to investigate the matter and threatening to pursue legislative action.

"Someone at EPA is either completely incompetent or intentionally violating federal law," wrote J.D. Alexander, the group's past president. "Either way, this action shows EPA cannot be trusted with sensitive information and should not have the authority to procure or disseminate it."

EPA didn't make Nancy Stoner, the water office's acting assistant administrator, or other agency officials available for an interview on the issue today. But the agency issued an emailed statement to *Greenwire* emphasizing its commitment to "openness and transparency" in its oversight of CAFOs and animal feeding operations (AFOs).

"After a recent release by EPA of CAFO- and AFO-related information under a Freedom of Information Act request, the agricultural community raised a number of privacy concerns," the statement says. "In response, EPA determined that some personal information that could have been protected under FOIA was inadvertently released. EPA has now redacted that information and asked the FOIA requesters to return the information."

Environmental groups began requesting CAFO information in October as part of an effort to examine EPA efforts to stem pollution from those facilities. In response to that FOIA request, EPA provided hundreds of pages of information containing the names, street addresses, latitude and longitude, and contact information for 80,000 livestock facilities.

EPA said then that it collected all the data from state agencies and that it was publicly available. EPA did the data-gathering after withdrawing a rule last year that would have compelled CAFOs to report similar types of data directly to the agency.

The release of the data enraged trade groups representing the beef, pork and poultry industries. In a March 22 letter to Stoner, they accused EPA of violating the Privacy Act of 1974, which prohibits the release of information about individuals without their consent. They also said the release was inconsistent with EPA's own FOIA policies.

The agency, the livestock groups said, took it for granted that all the data was already publicly available and did not first review whether any of it contained private information.

"EPA did not exercise the 'utmost care' in protecting the sensitive personal information contained in



the released documents," the groups said.

In a follow-up letter April 4, EPA's Stoner told the livestock groups that the agency determined that all the information for 19 of the states was publicly available on EPA or state websites. Stoner said she didn't believe EPA violated the Privacy Act.

Stoner said the agency did find, though, that it had released some personal information in the data sets for 10 of the states -- Arizona, Colorado, Georgia, Indiana, Illinois, Michigan, Montana, Nebraska, Ohio and Utah.

"Certain pieces of information received from ten of the twenty-nine states are neither available on the EPA or state websites nor subject to mandatory disclosure requirements under federal or state permitting programs," Stoner wrote. "The EPA has thoroughly evaluated every data element from each of these states and concluded that personal information ... implicates a substantial privacy interest that outweighs any public interest in disclosure."

EPA then asked that the environmental groups return all the original data and destroy any copies; the three groups complied early last month, saying they weren't interested in personal information but rather in records on discharges of nutrients, pathogens, heavy metals and pharmaceuticals from agricultural operations (*E&E Daily*, April 11).

After redacting portions of the data from the 10 states where the agency found privacy issues, EPA again released the data set to the environmental groups, as well as the livestock groups, EPA explained in correspondence to the groups.

But that data still included personal information on operations in Montana and Nebraska, so the agency Tuesday asked the groups to return it and destroy any copies.

EPA sent out a third version of the data this week that contained all the information of the second set, "except that the data EPA released for operations in Montana and Nebraska has been further redacted. The EPA has redacted additional names of individuals, telephone numbers, personal addresses and notations about private matters in these two states," EPA's Wiedeman wrote.

The National Cattlemen's Beef Association said it was "appalled" by the whole situation. In a statement, Nebraska's two senators also said they were alarmed by the scope of the data release.

"This whole episode is more than a mere comedy of errors," said Sen. Deb Fischer (R-Neb.). "It represents a pattern of disturbing disregard for the rights of our citizens."

Sen. Mike Johanns (R-Neb.), a former secretary of Agriculture in the George W. Bush administration, hinted that he thought the release was part of a "larger agenda to jeopardize American agriculture operations."

"EPA's disregard for the privacy of farmers and ranchers in Nebraska and across the country is, at best, woeful negligence, and at worst, a flagrant effort to aid organizations seeking to radically dismantle agriculture practices, with no regard for what it takes to feed the world," Johanns said.

The three environmental groups did not respond to requests for information on whether they've

returned the second data set or received the third one.

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## Yager, Scott

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**From:** Devine, Jon [jdevine@nrdc.org]  
**Sent:** Tuesday, May 07, 2013 1:28 PM  
**To:** Gilinsky, Ellen; Mitschele, Becky; Wiedeman, Allison; Kupchan, Simma  
**Subject:** FW: Ltr to EPA re FOIA 2013-001516  
**Attachments:** 5-6-13 ltr to EPA-FOIA.PDF

Good afternoon,

The attached letter and accompanying disk will be going out via FedEx to Becky today.

Best,

Jon

Jon Devine  
Senior Attorney, Water Program  
Natural Resources Defense Council  
[jdevine@nrdc.org](mailto:jdevine@nrdc.org)  
(202) 289-2361 (phone)  
(202) 289-1060 (fax)  
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NATURAL RESOURCES DEFENSE COUNCIL

May 6, 2013

Becky Mitschele  
U.S. Environmental Protection Agency  
Office of Water  
Mail Code 4203M  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Re: Freedom of Information Act Response #2013-001516

Dear Ms. Mitschele:

This letter is in response to a letter dated April 30, and received May 3, 2013, from Allison Wiedeman, Chief of the Rural Branch of the Office of Wastewater Management. The letter requests that, with respect to material previously produced under the Freedom of Information Act, the Natural Resources Defense Council "return the previously released disks (from the January 31 and April 4 release) and that any copy of electronic or paper files of the January 31 or April 4 release be destroyed."

NRDC sought information concerning industrial livestock operations because we believe that Americans, in particular those people who live near, or share waterways with, concentrated animal feeding operations have a right to know about these facilities. Specifically, people deserve to know whether the Environmental Protection Agency has sufficient information about these facilities to develop appropriate pollution control requirements for them. And, people are entitled to know things like where CAFOs are, how much waste they generate, how they ensure their waste does not pollute waterways, and whether they are complying with the Clean Water Act. Our interest is not in legitimately private information.

Accordingly, enclosed please find the disk produced to us that accompanied EPA's April 4 letter. NRDC has already returned the disk accompanying EPA's January 31 letter. NRDC has deleted the files on the April 4 disk from our computer system. We also will destroy paper copies, if any, of materials for Nebraska or Montana from the April 4 disk.

Please contact me at (202) 289-2361 if you have any questions concerning this response.

Sincerely,

Jon P. Devine, Jr.  
Senior Attorney  
Water Program  
Natural Resources Defense Council





**From:** <Mitschele.Becky@epamail.epa.gov>  
**To:** "Julie Janovsky" <jjanovsky@pewtrusts.org>  
**Sent:** Thursday, January 31, 2013 4:47 PM  
**Subject:** Fw: Meet with Pew about CAFO Rule

To: Julie Janovsky <jjanovsky@pewtrusts.org>

Yes. I did get on Deborah's calendar. Thank you for checking.

You can come to EPA East Building entrance, which is on the corner of 12th and Constitution Ave. The address for the building is at 1201 Constitution Ave., Washington D.C., 20004.

You will have to go through security and will need an ID, I believe. You can have the guard station call me, and I will come down to greet you. We will be in a conference room.

Thx  
 Becky Mitschele  
 Water Permits Division, OWM  
 U.S. Environmental Protection Agency  
 Tel: 202.564.6418

----- Forwarded by Becky Mitschele/DC/USEPA/US on 01/31/2013 04:42 PM -----



## Meet with Pew about CAFO Rule

**Mon 02/11/2013 4:00 PM - 5:00 PM**

Attendance is for Becky Mitschele

Chair: Deborah Nagle/DC/USEPA/US  
 Sent By: Doris Gray/DC/USEPA/US

Rooms: DCRoomEast7402/DC-ICC-OWM@EPA



Required:

This entry has an alarm. The alarm will go off before the entry starts.

Allison Wiedeman/DC/USEPA/US@EPA, Becky Mitschele/DC/USEPA/US@EPA, Caitlin Conover/DC/USEPA/US@EPA, George Utting/DC/USEPA/US@EPA

**Description**  
**Personal Notes**



---

**From:** "Althouse, Claire" <calthouse@nrdc.org>  
**To:** <mitschele.becky@epamail.epa.gov>  
**Sent:** Friday, January 04, 2013 4:37 PM  
**Attach:** PewNRDCCAFOFOIA- Response to EPA Request for Additional Time- 12-20-12.pdf; Appendix A- Pew-NRDC CAFO FOIA 10-24-12 copy.pdf  
**Subject:** FW: Partial Response to FOIA EPA-HQ-2013-001516

Good afternoon, Becky,

I wanted to make sure you received this email that I sent just prior to the holidays. Please feel free to reach out if you have any questions.

Thank you for the records you have already sent, and for working to compile the remaining records.

Sincerely,  
 Claire

---

**From:** Althouse, Claire  
**Sent:** Friday, December 21, 2012 6:36 AM  
**To:** Mitschele.Becky@epamail.epa.gov  
**Cc:** Kupchan.Simma@epamail.epa.gov; Yager.Scott@epamail.epa.gov; Utting.George@epamail.epa.gov; Webb.Adelaide@epamail.epa.gov; Jones-Coleman.Diane@epamail.epa.gov; Devine, Jon; jjanovsky@pewtrusts.org; ksteuer@pewtrusts.org  
**Subject:** RE: Partial Response to FOIA EPA-HQ-2013-001516

Good morning Becky,

Attached, please find Pew and NRDC's response to your request for an extended timeframe to reply to our FOIA request.

Sincerely,  
 Claire Althouse

---

**From:** Mitschele.Becky@epamail.epa.gov [Mitschele.Becky@epamail.epa.gov]  
**Sent:** Tuesday, December 18, 2012 10:32 AM  
**To:** jjanovsky@pewtrusts.org; Devine, Jon  
**Cc:** Althouse, Claire; Kupchan.Simma@epamail.epa.gov; Yager.Scott@epamail.epa.gov; Utting.George@epamail.epa.gov; Webb.Adelaide@epamail.epa.gov; Jones-Coleman.Diane@epamail.epa.gov  
**Subject:** Partial Response to FOIA EPA-HQ-2013-001516

Hello Jon and Julie,

We have mailed a partial response to the FOIA requesting copies of records related to the withdrawal of the proposed CAFO Reporting Rule.

Please find attached the cover letter that will be enclosed with the CD that we are mailing today. Once you have had a chance to review the documents, we can set up a meeting to discuss next steps. Please let me know what would be a good day and time for you all.

*(See attached file: Interim response cover letter to NRDC and Pew.pdf)*

Thanks,  
 Becky Mitschele  
 Water Permits Division, OWM  
 U.S. Environmental Protection Agency  
 Tel: 202.564.6418





THE  
**PEW**  
CHARITABLE TRUSTS

October 24, 2012

*Via Regular Mail and Electronic Mail to:*

National Freedom of Information Officer  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20460  
E-mail: [hq.foia@epa.gov](mailto:hq.foia@epa.gov)

**Re: Freedom of Information Act Request for Records Related to EPA's Ability to  
Protect the Public from Concentrated Animal Feeding Operations' Pollution**

To Whom It May Concern:

On behalf of the Natural Resources Defense Council ("NRDC") and the Pew Charitable Trusts, we write to request disclosure of records pursuant to the Freedom of Information Act ("FOIA"),<sup>1</sup> and the Environmental Protection Agency ("EPA") FOIA regulations.<sup>2</sup>

NRDC is comprised of more than 1.3 million members and online activists and over 350 lawyers, scientists, and advocates who are committed to protecting our natural resources for health and future generations. This includes protecting our nation's water supply from pollution caused by animal agriculture.

The Pew Charitable Trusts' Campaign to Reform Industrial Animal Agriculture is dedicated to advancing pollution control policies to mitigate waste from animal agriculture and create a new system that is less damaging to the environment, rural communities and human health.

<sup>1</sup> 5 U.S.C. § 552.

<sup>2</sup> 40 C.F.R. 2.100 ff.



## **I. Description of Records Sought**

NRDC and the Pew Charitable Trusts ask that EPA please produce all records<sup>3</sup> in EPA's possession, custody or control relating to EPA's withdrawal of the proposed National Pollutant Discharge Elimination System ("NPDES") Concentrated Animal Feeding Operation ("CAFO") Reporting Rule ("Reporting Rule").<sup>4</sup>

These records should include, without limitation:

1. Any records pertaining to the Reporting Rule that are not contained in the public docket for that rule that were submitted to EPA by: The American Farm Bureau Federation, The National Pork Producers Council, The National Cattlemen's Beef Association, The United Egg Producers, The U.S. Poultry & Egg Association, The National Council of Farmer Cooperatives, The National Milk Producers Federation, The National Chicken Council, the National Turkey Federation, The National Corn Growers Association, or any other agricultural trade association.
2. Any records providing factual information concerning the completeness, accuracy, and public accessibility of states' CAFO information in the following areas:
  - a. The legal name of the owner of the CAFO or an authorized representative, their mailing address, email address, and primary telephone number,
  - b. The legal name and address of the CAFO owner/operator, if the name and address of an authorized representative is provided above,
  - c. The location of the CAFO's production area, identified by latitude and longitude and street address,
  - d. If the owner or operator has NPDES permit coverage, the date of issuance of coverage under the NPDES permit, and the permit number,
  - e. For the previous 12-month period, identification of each animal type confined either in open confinement including partially covered area, or housed totally under roof at the CAFO for 45 days or more, and the maximum number of each animal type confined at the CAFO for 45 days or more,
  - f. Where the owner or operator land applies manure, litter, and process wastewater, the total number of acres under the control of the owner or operator available for land application,
  - g. If the CAFO is a contract operation, the name and address of the integrator,

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<sup>3</sup> The term "records" is used herein to mean anything denoted by the use of that word or its singular form in the text of FOIA. In particular, the term includes, but is not limited to, all writings (handwritten, typed, electronic, or otherwise produced, reproduced, or stored) including, but not limited to, correspondence, minutes of meetings, memoranda, notes, e-mails, notices, facsimiles, charts, tables, presentations, orders and filings.

<sup>4</sup> National Pollutant Discharge Elimination System (NPDES) Concentrated Animal Feeding Operation (CAFO) Reporting Rule, 76 Fed. Reg. 65,431 (Oct. 21, 2011) (Docket No. EPA-HQ-OW-2011-0188) [hereinafter *CAFO Reporting Rule*].

- h. Type and capacity of manure storage used at the CAFO,
  - i. Quantity of manure, process wastewater, and litter generated annually by the CAFO,
  - j. If the CAFO land-applies, whether it implements a nutrient management plan for land application,
  - k. If the CAFO land-applies, whether it employs nutrient management practices and keeps records on site consistent with 40 CFR 122.23(e),
  - l. If the CAFO does not land apply, alternative uses of manure, litter and/or wastewater, and
  - m. Whether the CAFO transfers manure off site, and if so, the quantity transferred to recipient(s) of transferred manure.
3. Any records that provide any of items 2.a-m, above, for any CAFO in the U.S.

## **II. Request for Fee Waiver**

NRDC and the Pew Charitable Trusts request that EPA waive the fee that it would otherwise charge for search and production of the records described above. FOIA dictates that requested records be furnished without any charge or at a reduced charge if A) “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operation or activities of the government,” and B) “is not primarily in the commercial interest of the requester.”<sup>5</sup> The requested disclosure would meet both of these requirements. In addition, NRDC qualifies as a “representative of the news media” entitled to a reduction of fees under FOIA.<sup>6</sup>

### **A. Disclosure is in the Public Interest and would Contribute Significantly to Public Understanding of the Operations of the Government**

FOIA dictates that a fee waiver should be granted when a disclosure is “likely to contribute significantly to public understanding of the operations or activities of the government.”<sup>7</sup> The records described above shed light on a matter of considerable public interest and concern: the extent to which EPA has the capacity to effectively mitigate water pollution from CAFOs.

As EPA pointed out in the proposed Reporting Rule, “pollutants from manure, litter, and process wastewater can affect human health and the environment.”<sup>8</sup> EPA noted that “despite more than 35 years of regulating CAFOS, reports of water quality impacts from large animal feeding

<sup>5</sup> 5 U.S.C. § 552(a)(4)(A)(iii); 40 CFR 2.107(l).

<sup>6</sup> 5 U.S.C. § 552(a)(4)(A)(ii)(II); 40 CFR 2.107(d).

<sup>7</sup> 5 U.S.C. § 552(a)(4)(A)(iii); 40 CFR 2.107(l).

<sup>8</sup> CAFO Reporting Rule, *supra* note 4, at 65,433.



operations persist.”<sup>9</sup> Pollutants commonly found in CAFO waste include nutrients, pathogens, heavy metals, and pharmaceuticals.<sup>10</sup> These pollutants cause toxic algal blooms, human disease, and human reproductive problems.<sup>11</sup> It is of great public concern that waste containing these pollutants is effectively managed and contamination of water resources is avoided.

The Government Accountability Office recommended in a 2008 report to Congress that EPA “should complete the Agency’s effort to develop a national inventory of permitted CAFOs” because “EPA has neither the information it needs to assess the extent to which CAFOs may be contributing to water pollution, nor the information it needs to ensure compliance with the Clean Water Act.”<sup>12</sup> EPA withdrew the Reporting Rule, which would have gathered information EPA needs to perform its duty of protecting public health and water quality. It is therefore in the public interest to determine what “operations or activities” the EPA plans to use to deal with the staggering lack of information about CAFOs and the persistent pollution affiliated with these facilities.

The tailored request in this letter seeks disclosure of important records concerning EPA’s activities that will contribute meaningfully and significantly to public understanding of CAFO pollution. Disclosure of these records will contribute “significantly” to public understanding because NRDC and the Pew Charitable Trusts will disseminate summary and analysis of any newsworthy information conveyed in the requested records.

As a not for profit organization, the Pew Charitable Trusts is well-equipped to analyze and disseminate the requested information, and may use this information to contribute to the public’s understanding of the EPA’s withdrawal of the proposed NPDES CAFO Reporting Rule. The Pew Charitable Trusts could disseminate that information in a number of ways including through the Pew Charitable Trusts’ website, <http://www.pewtrusts.org>, Pew Environment Group’s website, <http://www.pewenvironment.org>, and its publication *The Latest*, which has a circulation of nearly 120,000 people. In addition, it could distribute the information through the state and national media by way of press releases or other media for general public consumption.

NRDC publishes information in its magazine, *OnEarth*, which is distributed to over 150,000 subscribers, for sale to newsstands and bookstores, and free of charge at <http://www.nrdc.org/onearth>. NRDC also has the ability to disseminate information on CAFO pollution through its website, <http://www.nrdc.org>, which is updated daily and draws approximately 2.5 million page views and 700,000 visits per month; its *Nature’s Voice* newsletter on current environmental issues, distributed five times a year to NRDC’s

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<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> U.S. Gov’t Accountability Office, *Concentrated Animal Feeding Operations: EPA Needs More Information and a Clearly Defined Strategy to Protect Air and Water Quality*, GAO-08-944 5 (2008), page 48.



approximately 650,000 members and online at <http://www.nrdc.org/naturesvoice/>, and other newsletters and alerts. NRDC's *Earth Action* email list has more than 165,000 subscribers who receive biweekly information on urgent environmental issues. This information is also made available through NRDC's online Action Center at <http://www.nrdc.org/legislation/legwatch.asp>. *This Green Life* is an electronic newsletter on environmentally sustainable living distributed by email to 55,000 subscribers and made available online at <http://www.nrdc.org/thisgreenlife/>. NRDC issues press releases; participates in press conferences and interviews with reporters and editorial writers; and has over twenty staff members dedicated to communications work.<sup>13</sup> Finally, NRDC employees provide Congressional testimony, appear on television, radio, and web broadcasts and at conferences; and contribute to numerous national newspapers, magazines, academic journals, other periodicals, and books.<sup>14</sup>

NRDC routinely uses FOIA to obtain information from federal agencies that NRDC legal and scientific experts analyze in order to inform the public about a variety of issues including energy policy, climate change, wildlife protection, nuclear weapons, pesticides, drinking water safety, and air quality. Some specific examples are provided below:

1. NRDC obtained through a court-enforced FOIA request records of the operations of Bush Administration's Energy Task Force, headed by Vice President Dick Cheney. It made those records available, along with analysis of selected excerpts and links to the administration's index of withheld documents, on NRDC's website at <http://www.NRDC.org/air/energy/taskforce/tfinx.asp>. NRDC's efforts helped to inform the public about an issue that, even before the records' release, had attracted considerable attention.<sup>15</sup>
2. NRDC obtained through a FOIA request a memorandum by ExxonMobil advocating the replacement of a highly respected atmospheric scientist, Dr. Robert Watson, as the head of the Intergovernmental Panel on Climate Change. NRDC used this memorandum to

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<sup>13</sup> See "Communications" staff list at <http://www.nrdc.org/about/staff.asp>.

<sup>14</sup> See, e.g., Tammy Weber, *EPA Can't Regulate Livestock Farms it Can't Find*, Huffington Post, [http://www.huffingtonpost.com/2012/08/02/epa-cant-regulate-livesto\\_n\\_1732414.html](http://www.huffingtonpost.com/2012/08/02/epa-cant-regulate-livesto_n_1732414.html) (Aug. 2, 2012) (quoting NRDC Senior Attorney Jon Devine); Kristin Eberhard and Evan Gillespie, "How LADWP can do right by Angelenos," Op-Ed, L.A. Times (Sept. 11, 2012) (co-authored by NRDC Western Energy and Climate Program Legal Director Kristin Eberhard); Alice Park, "Waste Not," Time Magazine (Sept. 10, 2012) (quoting NRDC Senior Scientist Allen Hershkowitz); Steve Scher, "Food: Why Americans Waste So Much and Ways to Stop," KOUW (Seattle Public Radio), Aug. 30, 2012 (featuring NRDC Scientist Dana Gunders); "Weighing Benefits and Pitfalls of Increased Oil and Gas Production in the U.S.," PBS NewsHour, Aug. 10, 2012 (featuring NRDC Senior Attorney Kate Sinding); "Clean Air in California: What's it Going to Take?" 2012 Environmental Law Conference at Yosemite, Oct. 28, 2012 (featuring NRDC Attorney Adrian Martinez).

<sup>15</sup> See, e.g., Elizabeth Shogren, *Bush Gets One-Two Punch on Energy*, L.A. Times (Mar. 28, 2002), at A22; Bennett Roth, *Houston Energy-Drilling Firm Appears in Documents from Energy Department*, Houston Chronicle (Apr. 12, 2002).



help inform the public about what may have been behind the decision by the Bush Administration to replace Dr. Watson.<sup>16</sup>

3. NRDC incorporated information obtained through FOIA into a 2005 report, published and provided free of charge at NRDC's website,<sup>17</sup> on the impacts of military sonar and other industrial noise pollution on marine life.<sup>18</sup>

Disclosure of the requested documents is "likely to contribute significantly to public understanding" of EPA's activities concerning CAFO pollution<sup>19</sup> because NRDC intends to disseminate any newsworthy information in the released records, and its analysis of such records, to its member base and to the broader public, through one or more of the many communications channels referenced above. As NRDC's long history of incorporating information obtained through FOIA into reports, articles, and other communications illustrates, NRDC is well prepared to convey to the public any relevant information it obtains through this records request.

**B. NRDC and the Pew Charitable Trusts have no Commercial Interest that would be Furthered by the Requested Information**

Disclosure in this case would also satisfy the second prerequisite of a fee waiver request<sup>20</sup> because "Congress amended FOIA to ensure that it be 'liberally construed in favor of waivers for noncommercial requesters.'"<sup>21</sup> NRDC and the Pew Charitable Trusts are not-for-profit organizations and, as such, have no commercial interest.

NRDC's and the Pew Charitable Trusts' primary interest in obtaining the above records is to serve the public by disclosing presently non-public information about EPA's ability to protect the public from CAFO pollution. As previously discussed, CAFOs are a significant source of water pollution, and waste from CAFOs contains substances that are hazardous to humans and the environment. Because CAFOs are potentially so harmful to human health and natural places, it is in the public interest to examine how EPA plans to protect against the harmful effects of CAFO pollution.

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<sup>16</sup> See NRDC Press Release and Exxon memorandum, "Confidential Papers Show Exxon Hand in White House Move to Oust Top Scientist from International Global Warming Panel," (Apr. 3, 2002); Elizabeth Shogren, *Charges Fly Over Science Panel Pick*, L.A. Times (Apr. 4, 2002).

<sup>17</sup> See <http://www.nrdc.org/wildlife/marine/sound/contents.asp>.

<sup>18</sup> See NRDC, *Sounding the Depths II* (Nov. 2005) (update to a 1999 report). Since the report's publication, the sonar issue has continued to attract widespread public attention. See, e.g., D. Fleshler, "Navy testing could devastate whales and dolphins, groups say," Ft. Lauderdale Sun Sentinel, July 13, 2012.

<sup>19</sup> 5 U.S.C. § 552(a)(4)(A)(iii).

<sup>20</sup> 5 U.S.C. § 552(a)(4)(A)(iii); 40 CFR 2.107(l)(3).

<sup>21</sup> *Judicial Watch v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (internal citation omitted).

### C. NRDC is a Media Requester

Even if EPA denies a public interest waiver of all costs and fees, NRDC is a representative of the news media entitled to a reduction of fees under FOIA.<sup>22</sup> As described previously in this request, NRDC publishes a quarterly magazine, *OnEarth*, which has more than 150,000 subscribers and is available at newsstands and bookstores; publishes a periodic newsletter for its more than 650,000 members nationally; issues regular electronic newsletters, action alerts, public reports and analyses; and maintains a free online library of reports and analyses. These publications routinely include information about current events of interest to the readership and the public. NRDC staff members are also regular contributors to numerous periodicals, books, and the NRDC Switchboard blog, <http://www.switchboard.nrdc.org/>; television, radio, and web programs; and hearings and conferences. CAFO pollution specifically has been featured in some of NRDC's media outlets.<sup>23</sup> As previously noted, information obtained as a result of this request will, if appropriately newsworthy, be disseminated through one or more of NRDC's publications or other suitable channels.

### III. Willingness to Pay Fees Under Protest

Please provide the records above irrespective of the status and outcome of your evaluation of NRDC's and the Pew Charitable Trusts' fee category assertion and fee waiver request. In order to prevent delay in EPA's provision of the requested records, NRDC and the Pew Charitable Trusts state that they will, if necessary and under protest, pay fees in accordance with 40 CFR 2.107. Please consult with me, however, before undertaking any action that would cause the fee to exceed \$500. Such payment will not constitute any waiver of NRDC's and the Pew Charitable Trusts' right to seek administrative or judicial review of any denial of its fee waiver request and/or rejection of its fee category assertion.

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<sup>22</sup> 5 U.S.C. § 552(a)(4)(A)(ii); 40 CFR 2.107(d).

<sup>23</sup> See, e.g., Posting of Jon Devine to NRDC Switchboard Blog, *EPA Chickens Out by Dropping Industrial Livestock Information Collection Effort*, (July 24, 2012), [http://switchboard.nrdc.org/blogs/jdevine/epa\\_chickens\\_out\\_by\\_dropping\\_i.html](http://switchboard.nrdc.org/blogs/jdevine/epa_chickens_out_by_dropping_i.html); Dan Rosen, *Cow Woes*, *OnEarth Magazine* (Aug. 26, 2012), available at <http://www.onearth.org/article/cow-woes>.



#### IV. Conclusion

We trust that, in responding to this request, EPA will comply with all relevant deadlines and other obligations set forth in FOIA and EPA's regulations.<sup>24</sup>

To the extent that the requested records are available in a readily accessible electronic format, we would prefer to receive documents electronically, either by email or on a CD. If electronic copies are unavailable, we will accept paper copies. Please send records to Jon Devine at [jdevine@nrdc.org](mailto:jdevine@nrdc.org), or mail them to:

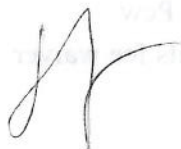
Jon Devine  
NRDC  
1152 15<sup>th</sup> Street NW, Suite 300  
Washington, DC 20005

Please produce records on a rolling basis; at no point should EPA's search for or deliberations concerning certain records delay the production of others that EPA has already retrieved and is obliged to produce.

In the event that EPA concludes that some of the records requested above may already be publicly available, we will be happy to discuss those conclusions in an effort to narrow the scope of this request.

Thank you for your prompt attention to this request.

Sincerely,



**Jon P. Devine, Jr.**  
Senior Attorney  
Natural Resources Defense Council  
202-289-6868  
[jdevine@nrdc.org](mailto:jdevine@nrdc.org)



**Karen Steuer**  
Director, Government Relations  
Pew Environment Group  
202-887-8818  
[ksteuer@pewtrusts.org](mailto:ksteuer@pewtrusts.org)

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<sup>24</sup> See 5 U.S.C. § 552; 40 CFR 2.100 ff.



THE  
**PEW**  
CHARITABLE TRUSTS

December 21, 2012

*Via Electronic Mail*

Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
[Mitschele.Becky@epamail.epa.gov](mailto:Mitschele.Becky@epamail.epa.gov)

**Re: Environmental Protection Agency request for additional time to respond to  
Freedom of Information Act inquiry**

Dear Ms. Mitschele,

NRDC and the Pew Environment Group have reviewed your request to extend the Environmental Protection Agency's (EPA) deadline for responding to our Freedom of Information Act (FOIA) request dated October 24, 2012.<sup>1</sup> We agree to wait until January 31, 2013, to receive a portion of the information we requested.

As you are aware, FOIA sets forth a 20-day timeframe for response;<sup>2</sup> if unusual circumstances exist, EPA may request an extension of 10 working days, or ask the requester to limit the scope of the request.<sup>3</sup> Twenty working days for responding to our request expired on November 21, 2012, at which time we had not heard from EPA regarding our request. The additional 10 days we could have potentially granted had we talked with EPA would have expired December 7, 2012. On December 17, 2012, EPA requested to extend the timeframe for response until January 31, 2013.

We agree to partially grant EPA's request for an extended timeframe for response. We agree to extend the timeframe for response with respect to our third request in the attached letter<sup>4</sup> until January 31, 2013. It is our understanding of this agreement that EPA will use the extended time to prepare the requested information. By January 31, 2013, we expect to receive all records responsive to our request.

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<sup>1</sup> Appendix A, attached.

<sup>2</sup> 5 U.S.C. § 552(a)(6); 40 C.F.R. 2.104.

<sup>3</sup> Id.

<sup>4</sup> Appendix A, page 3.

We do not agree to extend the timeframe for our first and second requests. We request that EPA immediately provide any records that are responsive to our first and second requests in the attached letter.<sup>5</sup>

Thank you for compiling the requested information for us.

Sincerely,



**Jon P. Devine, Jr.**  
Senior Attorney  
Natural Resources Defense Council  
[jdevine@nrdc.org](mailto:jdevine@nrdc.org)



**Karen Steuer**  
Director of Government Relations,  
Pew Charitable Trusts  
[ksteuer@pewtrusts.org](mailto:ksteuer@pewtrusts.org)

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<sup>5</sup> Appendix A, page 2.

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**From:** "Julie Janovsky" <jjanovsky@pewtrusts.org>  
**To:** <Mitschele.Becky@epamail.epa.gov>  
**Sent:** Thursday, January 31, 2013 4:19 PM  
**Subject:** Meeting  
Hi Becky,

Just thought I would touch base to see if you heard back from Debra Nagle's scheduler about the potential of either of the two dates we talked about.

Looking forward to it!  
Julie

Julie Janovsky  
Manager, Reforming Industrial Animal Agriculture  
Pew Charitable Trusts  
901 E Street NW  
Washington DC 20004  
C. 301.928.3882  
[www.pewenvironment.org/animalagriculture](http://www.pewenvironment.org/animalagriculture)  
[www.CAFOPollution.org](http://www.CAFOPollution.org)





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**From:** <Mitschele.Becky@epamail.epa.gov>  
**To:** "Devine, Jon" <jdevine@nrdc.org>; <ksteuer@pewtrusts.org>  
**Sent:** Friday, December 28, 2012 1:42 PM  
**Subject:** Meeting requested to discuss 12/20 letter in response to CAFO FOIA

To: "Devine, Jon" <jdevine@nrdc.org>, "ksteuer@pewtrusts.org" <ksteuer@pewtrusts.org>

Hi Jon and Karen,

I would like to set up another quick conference call to discuss the CAFO FOIA. In addition to myself and George Utting, Rural Branch Acting Chief, Deborah Nagle, our Division Director, will be on the call. We would like to discuss the site-specific CAFO records on this call.

Is there a good time that works for both of you? Deborah currently has open the following times:

1/2/13 after 3 pm EST  
1/3/13 After 5 pm  
1/7 or 1/9 after 3 pm

Thanks,  
Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418



## Yager, Scott

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**From:** Devine, Jon [jdevine@nrdc.org]  
**Sent:** Tuesday, April 09, 2013 4:07 PM  
**To:** Mitschele, Becky; Gilinsky, Ellen; Kupchan, Simma; Stoner, Nancy  
**Cc:** Althouse, Claire; Karen Steuer (ksteuer@pewtrusts.org)  
**Subject:** NRDC response to EPA 4/4/13 request re: CAFO FOIA request  
**Attachments:** Response to request for disk exchange.pdf

Please see attached. Please feel free to contact me with any questions you might have. We will be sending a hard copy of this letter and the disk via FedEx.

Best,  
Jon

Jon Devine  
Senior Attorney, Water Program  
Natural Resources Defense Council  
[jdevine@nrdc.org](mailto:jdevine@nrdc.org)  
(202) 289-2361 (phone)  
(202) 289-1060 (fax)  
Admitted in Massachusetts and the District of Columbia only

### PRIVILEGE AND CONFIDENTIALITY NOTICE

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and exempt from disclosure under applicable law. If you are not the intended recipient of this message, you are hereby notified that any dissemination, distribution, or copying of this communication or other use of a transmission received in error is strictly prohibited. If you have received this transmission in error, please notify me immediately at the above telephone number.





NATURAL RESOURCES DEFENSE COUNCIL

April 9, 2013

Becky Mitschele  
U.S. Environmental Protection Agency  
MC 4203M  
1200 Pennsylvania Avenue  
Washington DC, 20460  
[Mitschele.Becky@epa.gov](mailto:Mitschele.Becky@epa.gov)

Dear Ms. Mitschele:

In response to the Environmental Protection Agency's (EPA's) April 4, 2013, request, the Natural Resources Defense Council (NRDC) is returning the disk provided to us on January 31, 2013, pursuant to a Freedom of Information Act (FOIA) request.<sup>1</sup> We also deleted from our computer system all electronic copies of the documents contained on that disk. As evidenced by our cooperation with EPA's request and our willingness to refrain from using these materials during EPA's extended review of them, NRDC has no interest in personal phone numbers, email addresses, or other private information about individuals. Instead, as explained in our original FOIA request, we are interested in "important records concerning EPA's activities that will contribute meaningfully and significantly to public understanding of CAFO pollution."<sup>2</sup>

To effectuate the goal described in our original request, we would like further clarification of the basis for withholding non-personal information contained in EPA's records, which fall into the first four categories of the itemized list of withheld material that you attached to your April 4, 2013 letter.<sup>3</sup> For example, EPA notes that the agency withheld "documents that refer or relate to...EPA's progress on obtaining existing CAFO information."<sup>4</sup> This description suggests that the agency is withholding factual, not deliberative, material. Please provide a more complete description of the

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<sup>1</sup> EPA's April 4, 2013 letter references a February 4, 2013 response. However, NRDC did not receive any disks, letters, or responses on February 4, 2013, so we are returning the disk we received on January 31, 2013 containing the documents described in the remainder of your April 4, 2013 letter.

<sup>2</sup> Letter from Jon P. Devine, Jr., Senior Attorney, NRDC, and Karen Steuer, Director of Government Relations, Pew Charitable Trusts, to the National Freedom Information Officer, U.S. Environmental Protection Agency (October 24, 2012).

<sup>3</sup> Letter from Nancy Stoner, Acting Assistant Administrator, U.S. Environmental Protection Agency Office of Water, to Jon Devine, Senior Attorney, NRDC (April 4, 2013).

<sup>4</sup> Id.

administrative, non-facility-specific records EPA withheld, and the basis for withholding those administrative records. In view of President Obama's memorandum to agency heads insisting on "a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government,"<sup>5</sup> such an explanation is imperative. In the meantime, we reserve our rights to appeal EPA's refusal to disclose those non-privacy related materials. Thank you for your attention to our request for further information.

Sincerely,



**Jon P. Devine, Jr.**

Senior Attorney, NRDC

1152 15th Street NW, Suite 300

Washington, DC 20005

202-289-6868

[jdevine@nrdc.org](mailto:jdevine@nrdc.org)

Enclosure

cc: Nancy Stoner, EPA OW  
Ellen Gilinsky, EPA OW  
Karen Steuer, Pew Charitable Trusts

<sup>5</sup> President Barack Obama, Memorandum for the Heads of Executive Departments and Agencies, 74 Fed. Reg. 4,683 (Jan. 21, 2009).



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**From:** <Mitschele.Becky@epamail.epa.gov>  
**To:** "Julie Janovsky" <jjanovsky@pewtrusts.org>; <jdevine@nrdc.org>; <calthouse@nrdc.org>; <ksteuer@pewtrusts.org>  
**Cc:** <Yager.Scott@epamail.epa.gov>; <Kupchan.Simma@epamail.epa.gov>; <Utting.George@epamail.epa.gov>  
**Sent:** Thursday, January 31, 2013 4:56 PM  
**Attach:** Partial Denial Letter to NRDC\_PEW.pdf; Spreadsheet with the documents withheld.xlsx  
**Subject:** Partial Denial Letter - FOIA Interim Response #2 - All Responsive Documents Except Email Records

To: Julie Janovsky <jjanovsky@pewtrusts.org>, jdevine@nrdc.org, calthouse@nrdc.org, ksteuer@pewtrusts.org

Cc: Yager.Scott@epamail.epa.gov, Kupchan.Simma@epamail.epa.gov, Utting.George@epamail.epa.gov

Please find attached a letter in response to your FOIA Request as well as a list of documents withheld. You will be getting a CD with electronic records of all releasable documents, and I will be uploading these documents into FOIAonline. We have mailed the CD and the attached letter to both NRDC and Pew.

We are working on compiling the email records per our previous email exchanges. Thank you again for working with us as we transmit all responsive email records to you in a few weeks. If you have any questions, please feel free to call.

*(See attached file: Partial Denial Letter to NRDC\_PEW.pdf)*

*(See attached file: Spreadsheet with the documents withheld.xlsx)*

Thanks,  
Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418





Itemized I

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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

WASHINGTON, D.C. 20460

**JAN 31 2013**

OFFICE OF  
WATER

**PARTIAL DENIAL LETTER**

**January 31, 2013**

Mr. Jon Devine  
Natural Resources and Defense Council  
1152 15<sup>th</sup> St N.W., Suite 300  
Washington, D.C. 20005

Ms. Karen Steuer  
Pew Charitable Trusts  
10<sup>th</sup> Floor  
901 E Street, N.W.  
Washington D.C. 20004

RE: Freedom of Information Act Request EPA-HQ-2013-001516

This is in response to your Freedom of Information Act (FOIA) request on behalf of Natural Resources and Defense Council (NRDC) and Pew Charitable Trusts, received on November 29, 2012.

Per email communications on January 29, 2013, we agreed to transmit all records, excluding emails, responsive to your FOIA request by January 31, 2013. We appreciate the extension of time to review and transmit email records related to items I(1-3) in your FOIA request. We will transmit email records by February 19, 2013, as outlined in our email communications.

Enclosed you will find a compact disk with documents responsive to your request for the January 31, 2013 deadline. We are unable to provide you with the documents, or portions of documents, which have been determined to be exempt from mandatory disclosure by virtue of 5 U.S.C. § 552(b)(5) ("inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency") and 40 C.F.R. § 2.105(a)(5) ("inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than in litigation with the affected agency"). The documents EPA has withheld pursuant to this exemption include materials that would be protected under the attorney-client privilege and the executive deliberative process privilege.

An itemized list by category (including date range, number of documents, and approximate number of pages) of the withheld material along with the basis (i.e. exemption) for withholding is enclosed.

You may appeal this partial denial to the National Freedom of Information Office, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, D.C. 20460, Email: [hqfoia@epa.gov](mailto:hqfoia@epa.gov). Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, N.W. If you are submitting your appeal via hand delivery, courier service, or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W. Room 6416J, Washington D.C., 20004.

Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The appeal letter should include the FOIA number listed above. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal."

Please contact Becky Mitschele at (202) 286-6418 should you have any questions concerning this matter.

Sincerely,



Allison Wiedeman  
Chief, Rural Branch  
Water Permits Division

Enclosures:

Itemized list, excluding email records, by category of withheld material  
Compact disc (CD)



**Itemized List, Excluding Email Records, by Category of Withheld Material**

Item*	Date Range	Description of Document/Document Category	Exemption	Approximate (Approx.) Number of Documents	Approx. Number of Pages
A	5/1/2012 to 11/1/2012	Internal, pre-decisional drafts of documents, including briefing documents or notes during state conference calls, that refer or relate to the completeness, accuracy, or public accessibility of CAFO information maintained by states.	5 U.S.C. § 552(b) and 40 C.F.R. § 2.105(a)	146	293
B	2/1/2012 to 11/1/2012	Internal, pre-decisional drafts of documents that refer or relate to how EPA should gather CAFO information and EPA's progress on obtaining existing CAFO information.	5 U.S.C. § 552(b) and 40 C.F.R. § 2.105(a)	88	206
C	5/15/2012 to 7/30/2012	Internal, pre-decisional drafts of documents that refer or relate to the Memorandum of Understanding between EPA and the Association of Clean Water Administrators.	5 U.S.C. § 552(b) and 40 C.F.R. § 2.105(a)	18	39
D	10/15/2012 to 11/1/2012	Internal, pre-decisional drafts of briefing documents, desk statements, communication strategies, internal agency workgroup meeting materials, website revisions, Federal Register Notice versions, talking points, EPA office to office memoranda, and/or comment summary documents that refer or relate to the Agency's withdrawal of the proposed NPDES CAFO Reporting Rule.	5 U.S.C. § 552(b) and 40 C.F.R. § 2.105(a)	222	3,264

\* Item column corresponds to the enclosed spreadsheet which shows document titles







THE  
**PEW**  
CHARITABLE TRUSTS

January 25, 2013

*Via Electronic Mail*

Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
[Mitschele.Becky@epa.gov](mailto:Mitschele.Becky@epa.gov)

Dear Ms. Mitschele,

This letter is in response to the Environmental Protection Agency's (EPA) January 10, 2013 request to extend the deadline for responding to the Natural Resources Defense Council (NRDC) and Pew Environment Group (Pew)'s October 24, 2013 request for documents under the Freedom of Information Act (FOIA).<sup>1</sup> NRDC and Pew have already granted EPA a 5-week extension<sup>2</sup> of FOIA's deadline for response.<sup>3</sup> After considering your request, NRDC and Pew decline to further extend the deadline. We request that you promptly provide all documents that are responsive to the original FOIA request.

EPA's stated reason for requesting additional time is not compelling. EPA does not seek a delay because, despite its best efforts, it was not able to meet the deadlines set forth in FOIA. Instead, EPA seeks additional time because it would prefer not to release documents at this time. We do not agree with EPA's justification, and we must now insist that the agency produce the records without further delay, as FOIA requires.

Sincerely,

**Jon P. Devine, Jr.**  
Senior Attorney  
Natural Resources Defense Council

**Karen Steuer**  
Director, Government Relations  
Pew Environment Group

<sup>1</sup> Letter from Jon Devine and Karen Steuer to the Environmental Protection Agency, Oct. 24, 2012.

<sup>2</sup> Letter from Jon Devine and Karen Steuer to Becky Mitschele, Dec. 21, 2012.

<sup>3</sup> 5 U.S.C. § 552(a)(6); 40 C.F.R. 2.104.



## Yager, Scott

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**From:** Devine, Jon [jdevine@nrdc.org]  
**Sent:** Friday, May 17, 2013 10:47 AM  
**To:** Mitschele, Becky  
**Subject:** Re: Amended FOIA Response #2013-001516

Hi Becky-  
I just received this. Is this changed?  
Jon

Sent from my iPhone

On May 17, 2013, at 9:39 AM, "[mitschele.becky@epa.gov](mailto:mitschele.becky@epa.gov)" <[mitschele.becky@epa.gov](mailto:mitschele.becky@epa.gov)> wrote:

> 05/17/2013 09:37 AM  
> FOIA Request: EPA-HQ-2013-001516  
> <Steuer.pdf>  
> <Devine.pdf>





**From:** "Althouse, Claire" <calthouse@nrdc.org>  
**To:** <Mitschele.Becky@epamail.epa.gov>  
**Cc:** <Utting.George@epamail.epa.gov>; "Devine, Jon" <jdevine@nrdc.org>; <ksteuer@pewtrusts.org>; <Kupchan.Simma@epamail.epa.gov>; <Yager.Scott@epamail.epa.gov>; "Julie Janovsky" <jjanovsky@pewtrusts.org>  
**Sent:** Tuesday, January 22, 2013 12:41 PM  
**Subject:** RE: Conference call this afternoon

Good morning Becky,

Thanks for checking in. We are still considering the request. You can expect a response from us tomorrow.

Best,  
 Claire

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**From:** Mitschele.Becky@epamail.epa.gov [mailto:Mitschele.Becky@epamail.epa.gov]  
**Sent:** Tuesday, January 22, 2013 9:37 AM  
**To:** Althouse, Claire  
**Cc:** Utting.George@epamail.epa.gov; Devine, Jon; ksteuer@pewtrusts.org; Kupchan.Simma@epamail.epa.gov; Yager.Scott@epamail.epa.gov  
**Subject:** Fw: Conference call this afternoon

Claire,

In followup to my vociemail last week, I wanted to inquire about where we left off from the 1/10 conference call where NRDC/Pew met with Deborah Nagle, our Permits Division Director.

Have you given additional consideration to our request for 2 additional months for the information related to state cafo data?

Becky Mitschele  
 Water Permits Division, OWM  
 U.S. Environmental Protection Agency  
 Tel: 202.564.6418

----- Forwarded by Becky Mitschele/DC/USEPA/US on 01/22/2013 12:33 PM -----

From: Becky Mitschele/DC/USEPA/US  
 To: "Althouse, Claire" <calthouse@nrdc.org>  
 Date: 01/10/2013 04:49 PM  
 Subject: Re: Conference call this afternoon

---

Yes. Thanks for confirming. We will open the conference line at 5:30 pm EST. The call information is 1-866-299-3188 and the code is 202-564-6418.

Becky Mitschele  
 Water Permits Division, OWM  
 U.S. Environmental Protection Agency  
 Tel: 202.564.6418

▼ "Althouse, Claire" ---01/10/2013 03:46:19 PM---Hello Becky, I just wanted to confirm that we are planning to discuss our FOIA request this afternoon

From: "Althouse, Claire" <calthouse@nrdc.org>  
 To: Becky Mitschele/DC/USEPA/US@EPA  
 Date: 01/10/2013 03:46 PM  
 Subject: Conference call this afternoon

Hello Becky,


I just wanted to confirm that we are planning to discuss our FOIA request this afternoon at 5:30 your time. I saw the updated calendar request, so I wanted to make sure we are all on the same page.

Thank you,  
 Claire

--

**Claire Althouse**

Policy Analyst • Water Program  
 Natural Resources Defense Council  
 1314 Second Street  
 Santa Monica, CA 90401  
 T: (310) 434-2300  
 F: (310) 434-2399

 Please consider the environment before printing this email.

## Yager, Scott

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**From:** Althouse, Claire [calthouse@nrdc.org]  
**Sent:** Tuesday, January 22, 2013 12:42 PM  
**To:** Mitschele, Becky  
**Cc:** Utting, George; Devine, Jon; ksteuer@pewtrusts.org; Simma Kupchan; Scott Yager; Julie Janovsky  
**Subject:** RE: Conference call this afternoon

Good morning Becky,

Thanks for checking in. We are still considering the request. You can expect a response from us tomorrow.

Best,  
Claire

---

**From:** Mitschele.Becky@epamail.epa.gov [mailto:Mitschele.Becky@epamail.epa.gov]  
**Sent:** Tuesday, January 22, 2013 9:37 AM  
**To:** Althouse, Claire  
**Cc:** Utting.George@epamail.epa.gov; Devine, Jon; ksteuer@pewtrusts.org; Kupchan.Simma@epamail.epa.gov; Yager.Scott@epamail.epa.gov  
**Subject:** Fw: Conference call this afternoon

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Have you given additional consideration to our request for 2 additional months for the information related to state cafo data?

Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418

----- Forwarded by Becky Mitschele/DC/USEPA/US on 01/22/2013 12:33 PM -----

From: Becky Mitschele/DC/USEPA/US  
To: "Althouse, Claire" <calthouse@nrdc.org>  
Date: 01/10/2013 04:49 PM  
Subject: Re: Conference call this afternoon

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Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418

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From: "Althouse, Claire" <calthouse@nrdc.org>  
To: Becky Mitschke/DC/USEPA/US/EPA  
Date: 01/10/2013 03:46 PM  
Subject: Conference call this afternoon

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Claire

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**Claire Althouse**

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Natural Resources Defense Council  
1314 Second Street  
Santa Monica, CA 90401  
T: (310) 434-2300  
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 Please consider the environment before printing this email.

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**From:** <Mitschele.Becky@epamail.epa.gov>  
**To:** "Althouse, Claire" <calthouse@nrdc.org>  
**Sent:** Thursday, January 10, 2013 4:49 PM  
**Subject:** Re: Conference call this afternoon

To: "Althouse, Claire" <calthouse@nrdc.org>

Yes. Thanks for confirming. We will open the conference line at 5:30 pm EST. The call information is 1-866-299-3188 and the code is 202-564-6418.

Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418

▼ "Althouse, Claire" ---01/10/2013 03:46:19 PM---Hello Becky, I just wanted to confirm that we are planning to discuss our FOIA request this afternoon

From: "Althouse, Claire" <calthouse@nrdc.org>  
To: Becky Mitschele/DC/USEPA/US@EPA  
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T: (310) 434-2300  
F: (310) 434-2399

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**From:** <Mitschele.Becky@epamail.epa.gov>  
**To:** "Julie Janovsky" <jjanovsky@pewtrusts.org>  
**Sent:** Monday, December 17, 2012 4:34 PM  
**Subject:** Re: Contact information for CAFO Data Strategy

To: Julie Janovsky <jjanovsky@pewtrusts.org>

Thanks, Julie!

Happy holidays to you too. I will be sending a disk to you and NRDC that will hopefully go out in tomorrow mail pickup.

We appreciated your time as well. Happy holidays and look forward to hearing back from you about next steps.

Thanks,  
Becky Mitschele  
Water Permits Division, OWM  
U.S. Environmental Protection Agency  
Tel: 202.564.6418





**From:** <Mitschele.Becky@epamail.epa.gov>  
**To:** "Devine, Jon" <jdevine@nrdc.org>  
**Cc:** <Wade.Alexis@epamail.epa.gov>; <Nagle.Deborah@epamail.epa.gov>;  
 <ed.hopkins@sierraclub.org>; <Gilinsky.Ellen@epamail.epa.gov>; "Kelly Hunter Foster"  
 <kfoster@waterkeeper.org>; <Eby.Louis@epamail.epa.gov>; <levine.maryellen@epamail.epa.gov>;  
 <Hill.Randy@epamail.epa.gov>  
**Sent:** Monday, July 16, 2012 2:00 PM  
**Attach:** 2012\_07\_12\_09\_16\_36\_MOU.PDF; CAFO\_signed by LPJ.PDF; NPDES CAFO Reporting Rule  
 Summary Report on Information Search.pdf  
**Subject:** RE: EPA takes final action on proposed NPDES CAFO Reporting Rule

To: "Devine, Jon" <jdevine@nrdc.org>  
 Wade.Alexis@epamail.epa.gov, Nagle.Deborah@epamail.epa.gov, "ed.hopkins@sierraclub.org"  
 <ed.hopkins@sierraclub.org>, Gilinsky.Ellen@epamail.epa.gov, Kelly Hunter Foster <kfoster@waterkeeper.org>,  
 Cc: Eby.Louis@epamail.epa.gov, levine.maryellen@epamail.epa.gov, Hill.Randy@epamail.epa.gov

It is not available yet on the website (regulations.gov) because the final action has not been published in the federal register yet.

The docket won't contain any of the documents that are mentioned in the pre-publication version of the final action until the Federal Register prints, which can take up to 10 business days.

(See attached file: NPDES CAFO Reporting Rule Summary Report on Information Search.pdf)

Thanks,  
 Becky Mitschele  
 Water Permits Division, OWM  
 U.S. Environmental Protection Agency  
 Tel: 202.564.6418

"Devine, Jon" ---07/16/2012 01:29:46 PM---I am forwarding this note to Kelly Foster, who handles this matter for the Waterkeeper Alliance. Th

From: "Devine, Jon" <jdevine@nrdc.org>  
 To: Becky Mitschele/DC/USEPA/US@EPA, Kelly Hunter Foster <kfoster@waterkeeper.org>, "ed.hopkins@sierraclub.org"  
 <ed.hopkins@sierraclub.org>  
 Cc: Ellen Gilinsky/DC/USEPA/US@EPA, Alexis Wade/DC/USEPA/US@EPA, MaryEllen Levine/DC/USEPA/US@EPA, Deborah  
 Nagle/DC/USEPA/US@EPA, Randy Hill/DC/USEPA/US@EPA, Louis Eby/DC/USEPA/US@EPA  
 Date: 07/16/2012 01:29 PM  
 Subject: RE: EPA takes final action on proposed NPDES CAFO Reporting Rule

I am forwarding this note to Kelly Foster, who handles this matter for the Waterkeeper Alliance. The notice mentions a summary of EPA's review of 37 state permitting authority websites and says it is in the docket. It does not appear to be available yet through regulations.gov. Please share that document.

Jon Devine  
 Senior Attorney, Water Program  
 Natural Resources Defense Council  
 jdevine@nrdc.org  
 (202) 289-2361 (phone)  
 (202) 289-1060 (fax)

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1/9/2014

**From:** Becky Mitschele [mailto:Mitschele.Becky@epamail.epa.gov]

**Sent:** Friday, July 13, 2012 4:10 PM

**To:** Devine, Jon; Hannah M. Connor; ed.hopkins@sierraclub.org

**Cc:** Ellen Gilinsky; Alexis Wade; MaryEllen Levine; Deborah Nagle; Randy Hill; Louis Eby

**Subject:** EPA takes final action on proposed NPDES CAFO Reporting Rule

Jon,

Per Ellen's voicemail, please see attached documents for final action on the proposed NPDES CAFO Reporting Rule.

*(See attached file: CAFO\_signed by LPJ.pdf)*

*(See attached file: 2012\_07\_12\_09\_16\_36\_MOU.pdf)*

We are updating our website as we speak to have a pre-publication version posted. The materials will be posted at:

<http://cfpub.epa.gov/npdes/afo/aforule.cfm>

Thanks,

Becky Mitschele

Water Permits Division, OWM

U.S. Environmental Protection Agency

Tel: 202.564.6418 *(See attached file: CAFO\_signed by LPJ.PDF)* *(See attached file:*

*2012\_07\_12\_09\_16\_36\_MOU.PDF)*

**NPDES CAFO Reporting Rule  
Summary Report on Information Search**

July 13, 2012

Water Permits Division  
Office of Wastewater Management  
U.S. Environmental Protection Agency  
Washington, D.C. 20460



NPDES CAFO Reporting Rule  
Summary Report on Information Search

July 13, 2012

Water Permit Division  
Office of Wastewater Management  
U.S. Environmental Protection Agency  
Washington, D.C. 20460

## ACKNOWLEDGEMENTS AND DISCLAIMER

This document was prepared by Tetra Tech, Inc., under Contract No. EP-C-11-009, Work Assignment 1-17, under the direction and review of the Office of Wastewater Management.

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## **NPDES CAFO Reporting Rule Information Search**

For each state, Tetra Tech searched the web sites for the state environmental department and the state department of agriculture for a list of CAFOs in the state, a map of CAFOs in the state, or other information identifying individual CAFOs. Tetra Tech also searched web sites for state farm bureaus and conservation districts, and performed a general keyword search for CAFO information presented through industry or environmental groups. The search attempted to find the following information for CAFOs in each state:

- Owner/Operator Name
- Owner/Operator Address
- CAFO Name
- CAFO Address
- CAFO Location
- CAFO Latitude/Longitude
- NPDES Permit Status
- NPDES Permit Number
- Type of Confined Animals
- Number of Animals
- Acres of Land Available for Land Application

For each state, Tetra Tech compiled as much facility identifying information as possible, according to the categories listed above, based on the available resources.

In addition to an internet search, Tetra Tech screened EPA's Integrated Compliance Information System (ICIS) and Permit Compliance System (PCS) databases for permitted CAFO information. Tetra Tech also evaluated the EPA Enforcement and Compliance History Online (ECHO) site as a possible source of information to identify and locate CAFOs. Since ECHO displays all permits for a facility, it is a potential resource for locating non-permitted CAFOs (i.e., if a CAFO without an NPDES CAFO permit nevertheless possesses another type of permit, such as an air permit, that identifies its location).

The notes below summarize the information that was found for each state. In some cases, Tetra Tech found maps or other resources that indicate the availability of site-specific CAFO information even if the information itself was not accessible on-line. Those resources are identified below, along with contact information, where available, that may be used to request the data.



## Notes

### *EPA Region 1*

#### Connecticut

- Located a report with two maps of CAFO locations in Connecticut. See section 2 of [http://www.ct.gov/dep/lib/dep/water\\_regulating\\_and\\_discharges/cafo/03finalrpt.pdf](http://www.ct.gov/dep/lib/dep/water_regulating_and_discharges/cafo/03finalrpt.pdf). Facility-specific information would need to be requested from the Connecticut Department of Environmental Protection.
- Also located a report generated for the Connecticut Department of Environmental Protection (DEP) that mapped dairy farms and discussed acres of land available for land application of dairy and poultry manure. See Figures 3-1 through 3-3 of <http://easternrcd-ct.org/NutrientManagement/NMpdfs/CAFOFeasibilityStudy.pdf>. Facility-specific information would need to be requested from the author (Wright-Pierce) or the CT DEP ([dep.webmaster@ct.gov](mailto:dep.webmaster@ct.gov)).

#### Maine

- Could not locate any information about CAFOs in Maine.

#### Massachusetts

- Could not locate any information about CAFOs in Massachusetts.

#### New Hampshire

- Could not locate any information about CAFOs in New Hampshire.

#### Rhode Island

- Could not locate any information about CAFOs in Rhode Island.

#### Vermont

- Could not locate any information about CAFOs in Vermont.

### *EPA Region 2*

#### New York

- The New York Department of Environmental Conservation (DEC) provides a map of Large and Medium permitted CAFOs in New York. Facility specific information may be requested from the Department ([dpaeweb@gw.dec.state.ny.us](mailto:dpaeweb@gw.dec.state.ny.us)). See <http://www.dec.ny.gov/permits/36895.html>. No other information was found.

#### New Jersey

- A list of CAFOs covered under the state general permit was located at <http://www.state.nj.us/dep/dwq/database.htm>. No other information was found using the state Department of Agriculture website or a general Google web search for New Jersey CAFOs.

#### Puerto Rico

- Could not locate any information about CAFOs in Puerto Rico.

#### US Virgin Islands

- Could not locate any information about CAFOs in the Virgin Islands.

#### EPA Region 3

##### Delaware

- EPA Region 3 provides a list of the number of medium and large AFOs in each state of EPA Region 3. See [http://www.epa.gov/reg3wapd/pdf/pdf\\_nps/afo/all\\_data.pdf](http://www.epa.gov/reg3wapd/pdf/pdf_nps/afo/all_data.pdf).
- The business and owner name, city, animal type, and number of animals for 300 CAFOs are identified in the 2009 PDF from Delaware Department of Agriculture at [http://dda.delaware.gov/nutrients/forms/2009/122009\\_Current%20CAFO%20List.pdf](http://dda.delaware.gov/nutrients/forms/2009/122009_Current%20CAFO%20List.pdf). The state would need to be contacted to obtain the specific locations (latitude/longitude or address) for the records displayed in the PDF. The surface water discharge permitting section of the Division of Water can be contacted at 302-739-9946, or a public information request can be submitted via the following web site:  
<http://www.dnrec.delaware.gov/wr/Information/Pages/PublicInformationRequest.aspx>

##### Maryland

- The State of Maryland issues permits for CAFOs and MAFOs (large AFOs that do not discharge.) Maryland Department of the Environment maintains a search engine for all regulated CAFOs and MAFOs. See [http://www.mde.state.md.us/programs/Land/SolidWaste/CAFOMAFO/Pages/Programs/LandPrograms/Solid\\_Waste/cafo\\_search/CAFO.aspx](http://www.mde.state.md.us/programs/Land/SolidWaste/CAFOMAFO/Pages/Programs/LandPrograms/Solid_Waste/cafo_search/CAFO.aspx). The listed facilities included CAFOs and MAFOs, but the list did not include the permit number for the facilities. A map of Maryland CAFOs is found at <http://cbfn.rhizalabs.com/cbi/snapshot/page?concept=~0176dd2a1e69e011e0b1deb4f4e60a530f>. The data set for this map has been deleted, but the web site lists the author of the map and provides a contact email (Brent Walls, [brent@potomacriverkeeper.org](mailto:brent@potomacriverkeeper.org))

##### Pennsylvania

- The Pennsylvania Department of Environmental Protection (DEP) maintains a searchable database of permitted facilities (eFACTS) at [http://www.ahs2.dep.state.pa.us/eFACTSWeb/criteria\\_client.aspx](http://www.ahs2.dep.state.pa.us/eFACTSWeb/criteria_client.aspx). A search could not be completed and exported to excel however due to errors with the site.
- The Pennsylvania Watershed Implementation Plan ([http://www.portal.state.pa.us/portal/server.pt/document/1010622/chesapeake\\_bay\\_wip\\_november\\_29%2C\\_2010\\_pdf?gid=36945254&rank=1](http://www.portal.state.pa.us/portal/server.pt/document/1010622/chesapeake_bay_wip_november_29%2C_2010_pdf?gid=36945254&rank=1), See page 33) indicates that the state maintains a master list of CAFOs and has mapped the location of these CAFOs. Information on filing a public records request is found at [http://www.portal.state.pa.us/portal/server.pt/community/public\\_records/19207](http://www.portal.state.pa.us/portal/server.pt/community/public_records/19207).

##### Virginia

- Virginia maintains spreadsheets of active permit applications for the Virginia Pollutant Discharge Elimination System (VPDES) and the Virginia Pollution Abatement (VPA) programs. See <http://www.deq.virginia.gov/Programs/Water/PermittingCompliance/PermitApplication>



Status.aspx. The VPA program regulates the land application of animal wastes. Each list does not contain the number of animals confined and therefore, Tetra Tech could not determine if each operation is a CAFO or an AFO.

#### West Virginia

- Could not locate any information about CAFOs in West Virginia.
- Animal feeding operation GIS data are available through AEGIS at <http://www.aegis.jsu.edu/WV/WVdownload.html>.

#### EPA Region 4

##### Florida

- Florida Department of Environmental Protection maintains a spreadsheet of facility information for permitted CAFOs and AFOs. See <http://www.dep.state.fl.us/water/wastewater/facinfo.htm>.

##### Alabama

- A list of AFOs and CAFOs that have registered with the State is provided at the following website: <http://www.adem.state.al.us/programs/water/cafo.cnt>. The facility's Master ID list can be used to find the address of each facility using ADEM efile at <http://edocs.adem.alabama.gov/eFile/>. The Alabama list was used to compare to the ICIS file of facilities to determine the accuracy of ICIS data.

##### Mississippi

- Mississippi DEQ maintains a searchable website for NPDES permits ([http://opc.deq.state.ms.us/search\\_ai\\_alt.aspx#grid](http://opc.deq.state.ms.us/search_ai_alt.aspx#grid)). Individual permits were identified by reviewing the list of individual permits and identifying individually permitted CAFOs. General permits were available for poultry and swine. CAFO NPDES permitting information is found at [http://www.deq.state.ms.us/MDEQ.nsf/page/epd\\_AgriculturalBranchEPD?OpenDocument](http://www.deq.state.ms.us/MDEQ.nsf/page/epd_AgriculturalBranchEPD?OpenDocument).
- The Mississippi Department of Agriculture and Commerce (<http://www.mdac.state.ms.us/>) was searched but no information was found.

##### Georgia

- Could not locate any information about CAFOs in Georgia.

##### Kentucky

- Could not locate any information about CAFOs in Kentucky.
- General CAFO permitting information is available at: <http://water.ky.gov/permitting/Pages/AFOsandCAFOs.aspx>
- KPDES permits issued and permit applications are searchable by date and permit program (e.g., Wastewater) at: [https://dep.gateway.ky.gov/eSearch/Report\\_Permits\\_Issued.aspx](https://dep.gateway.ky.gov/eSearch/Report_Permits_Issued.aspx), and [https://dep.gateway.ky.gov/eSearch/Report\\_Permits\\_Issued.aspx](https://dep.gateway.ky.gov/eSearch/Report_Permits_Issued.aspx)

## Tennessee

- Site-specific CAFO information was obtained from the Tennessee Department of Environment and Conservation at: [http://environment-online.state.tn.us:7654/pls/enf\\_reports/f?p=9034:34001:719316808965690::NO::](http://environment-online.state.tn.us:7654/pls/enf_reports/f?p=9034:34001:719316808965690::NO::) The information obtained includes multiple permit listings (i.e., NPDES and operating permits) for certain CAFOs.

## North Carolina

- Site-specific CAFO information was obtained online from the North Carolina Department of Environment and Natural Resources' Division of Water Quality at: <http://portal.ncdenr.org/web/wq/aps/afo/perm> Redundant NPDES permit numbers reflect different regulated activities (e.g., Dairy Calf, Dairy Heifer, or Milk Cow). CAFO location data includes County and Latitude/Longitude.

## South Carolina

- No site-specific information for South Carolina CAFO operations was obtained.
- GIS data layers for Permitted Agricultural Facilities (Animal Farms) are available for download from the South Carolina Department of Health and Environmental Control at: <http://www.scdhec.gov/gis/GIS.aspx>. "The downloadable GIS data layers provide spatial location of past and present agricultural facilities (animal houses and potential field application sites). Publication\_Date: 6/18/01"

## EPA Region 5

### Illinois

- No site-specific information for Illinois CAFOs was located.
- EPA Region 5 provided information regarding Illinois CAFOs at <http://www.epa.gov/region05/illinoisworkplan/>. The dates on these lists are from 2009 and therefore may not be current. As of February 2011, EPA Region 5 and Illinois have agreed on a workplan for the state to implement CAFO NPDES permitting procedures.
- A list of No Permit Required CAFOs: [http://www.epa.gov/region05/illinoisworkplan/pdfs/il\\_report\\_201009\\_attach\\_d.pdf](http://www.epa.gov/region05/illinoisworkplan/pdfs/il_report_201009_attach_d.pdf)
- List of facilities that previously had NPDES permits: [http://www.epa.gov/region05/illinoisworkplan/pdfs/il\\_report\\_201009\\_attach\\_a.pdf](http://www.epa.gov/region05/illinoisworkplan/pdfs/il_report_201009_attach_a.pdf)
- List of CAFOs required to obtain NPDES permit: [http://www.epa.gov/region05/illinoisworkplan/pdfs/il\\_report\\_201009\\_attach\\_b.pdf](http://www.epa.gov/region05/illinoisworkplan/pdfs/il_report_201009_attach_b.pdf)
- List of Certified Livestock Managers: <http://www.agr.state.il.us/Environment/LMFA/CLMlist.php>
- "Notices of Intent to Construct" a Livestock Facility received by the IL Dept. of Agriculture: <http://www.agr.state.il.us/Environment/LMFA/lmfastats.html>
- "Livestock Facility Survey Annual Summaries" which includes a list of NPDES permits issued by year: <http://www.epa.state.il.us/water/cafo/reports/>
- Facilities covered under General NPDES permit: <http://www.epa.state.il.us/water/permits/cafo/facilities>



## Indiana

- Indiana permits confined feeding operations (facilities with at least 300 cattle, 500 horses, 600 swine or sheep, or 30,000 fowl.)
- Confined Feeding Operations (CFOs) and CAFO Projects Issued July 24, 2011 to August 24, 2011 are listed at: <http://www.in.gov/ide/4850.htm>
- CFO and CAFO Projects Pending as of August 24, 2011 are listed at: <http://www.in.gov/ide/4851.htm>

## Michigan

- A list of permitted and pending CAFO facilities is found at [http://www.michigan.gov/deq/0,1607,7-135-3313\\_3682\\_3713-96774--,00.html](http://www.michigan.gov/deq/0,1607,7-135-3313_3682_3713-96774--,00.html)

## Ohio

- A map that displays the location of Concentrated Animal Feeding Facilities (CAFFs) permitted by the Ohio Department of Agriculture (ODA) and Concentrated Animal Feeding Operations (CAFOs) permitted by the Ohio Environmental Protection Agency (OEPA) can be found here: <http://wwwapp.epa.ohio.gov/dsw/gis/cafo/>. Questions or comments regarding this map can be submitted to Jon Bernstein in the Division of Surface Water at [jon.bernstein@epa.state.oh.us](mailto:jon.bernstein@epa.state.oh.us).

## Wisconsin

- A map of Wisconsin's Wisconsin Pollutant Discharge Elimination System permitted CAFOs is found at [http://dnr.wi.gov/runoff/pdf/ag/cafo\\_map.pdf](http://dnr.wi.gov/runoff/pdf/ag/cafo_map.pdf) and is dated June 2010.
- A list of CAFO permittees is provided at [http://dnr.wi.gov/runoff/agriculture/cafo/permits/cafo\\_all.asp](http://dnr.wi.gov/runoff/agriculture/cafo/permits/cafo_all.asp). For more information about Wisconsin CAFOs, please contact Tom Bauman 608-266-9993 with the Wisconsin Department of Natural Resources.

## Minnesota

- No site-specific information for Minnesota CAFOs was located.

## EPA Region 6

### Arkansas

- Arkansas requires all confined animal operations, regardless of size, that use a liquid waste management system obtain a permit from the Department. Facilities may be covered under an individual or general permit. The actual permits or list of enrollees could not be found. Arkansas recently public noticed its general NPDES permit for CAFOs. It has not yet been adopted.
- Facilities listed from Arkansas were retrieved from a spreadsheet of permitted facilities maintained by the state, found at <http://www.adeq.state.ar.us/home/pdssql/pds.asp>. The list sometimes provided the number of animals present at a facility, but for others where this information was not provided, it could not be determined whether the facilities are CAFOs or AFOs using a liquid waste management system.

#### Louisiana

- The Louisiana Department of Environmental Quality does not have a list of permits in an electronic format on its NPDES site. They do provide pdf lists of permit applications received per week from 2005 through current 2011. The website (<http://www.deq.louisiana.gov/portal/DIVISIONS/PublicParticipationandPermitSupport/PermitApplicationsReceived.aspx>) states that an electronic copy of the Permit Applications Received List can be requested by email by contacting Chris Mayeux at [chris.mayeux@la.gov](mailto:chris.mayeux@la.gov) or by telephone at (225) 219-3247.

#### New Mexico

- New Mexico does not have CAFO NPDES authorization, but does require groundwater permits for feeding operations that may affect groundwater. A list of these permits is provided at <http://www.nmenv.state.nm.us/qwb/NMED-GWQB-Permits.htm>. Because this list does not provide animal numbers per facility, it could not be determined whether the facilities listed are CAFOS or AFOs.

#### Oklahoma

- Oklahoma does not have CAFO NPDES authority. The Department of Agriculture maintains lists of new or expanding registered poultry feeding operations; it could not be determined based on the information presented (i.e., whether the manure handling system was wet or dry) for each listing whether it was a CAFO or AFO. See <http://www.ok.gov/~okag/aems/rpfo.htm>.

#### Texas

- Texas maintains a list of dischargers covered under the general permit at [http://www5.tceq.state.tx.us/wq\\_dpa/index.cfm](http://www5.tceq.state.tx.us/wq_dpa/index.cfm). The list contains a link to the NOI which contains all the info requested on the spreadsheet; however there are 728 active permittees with 595 distinct permits under the GP (as of March 1, 2012). A search of ICIS listed 625 facilities.

### EPA Region 7

#### Iowa

- The Iowa Department of Natural Resources maintains a spreadsheet of currently permitted facilities on its website. See <http://www.iowadnr.gov/InsideDNR/RegulatoryWater/NPDESWastewaterPermitting/CurrentNPDESPermits.aspx>.
- The Iowa State Association of Counties maintains 3 maps of animal feeding operations in Iowa. See <http://www.iowacounties.org/News/CAFosinIowa.htm>. The webpage indicates that the maps show CAFOs but the maps state they show AFOs, so it is not clear which is the correct label.
- IA DNR also maintains a database of facilities in IA, which include permitted facilities, and other facilities that have voluntarily registered with DNR. Access to this database is located at <https://programs.iowadnr.gov/animalfeedingoperations/Help.aspx>

#### Kansas

- Could not locate any CAFO information for Kansas.



## Missouri

- Missouri Department of Natural Resources maintains an interactive map of NPDES CAFOs plus any voluntarily registered AFOs. See <http://dnr.mo.gov/env/wpp/afo.htm>. A non-interactive map is found at <http://www.dnr.mo.gov/env/wpp/cafo/cafos8x11.pdf>. For further information, the Water Protection Program may be contacted at 573-751-1300 or E-mail: [cleanwater@dnr.mo.gov](mailto:cleanwater@dnr.mo.gov)

## Nebraska

- Nebraska Department of Environmental Quality (DEQ) maintains an interactive map for permitted facilities. The search options do not support identification of only permitted CAFOs under the NPDES program but the map does show the Livestock Waste Permitted Facilities. See <http://deqims.deq.state.ne.us/DEQ/index.jsp>.

## EPA Region 8

### Colorado

- EPA Enforcement & Compliance History Online (ECHO) - 249 facilities identified (See Download)
- Department of Public Health and Environment – Environmental Agriculture Program - <http://www.cdphe.state.co.us/oeis/eap/index.html> - No information identified
- Department of Agriculture - <http://www.colorado.gov/cs/Satellite/Agriculture-Main/CDAG/1167928197091> - Contains Premises Database but not publicly available
- Natural Resources Conservation Service - <http://www.co.nrcs.usda.gov/> - No information identified
- Farm Bureau - <http://www.coloradofarmbureau.com/> - No information identified
- Association of Conservation Districts - <http://cacd.us/> - No information identified

### Montana

- EPA Enforcement & Compliance History Online (ECHO) - 155 facilities identified (See Download)
- DEQ, Concentrated Animal Feeding Operations - <http://deq.mt.gov/wqinfo/MPDES/CAFO.mcp.x> - No information identified
- Department of Agriculture - <http://agr.mt.gov/> - No information identified
- Montana State University Extension - [http://animalrangeextension.montana.edu/articles/natresourc/cnmp/main\\_menu.htm](http://animalrangeextension.montana.edu/articles/natresourc/cnmp/main_menu.htm) - No information identified.
- Natural Resources Conservation Service – <http://www.mt.nrcs.usda.gov/> - No information identified.
- Farm Bureau - <http://mfbf.org/> - No information identified.

### North Dakota

- EPA Enforcement & Compliance History Online (ECHO) - 41 facilities identified (See Download)

- Department of Health – AFO Program - <http://www.ndhealth.gov/WQ/AnimalFeedingOperations/AFOProgram.htm> - No information identified
- Farm Bureau - <http://www.ndfb.org/> - No information identified
- North Dakota State University State Feedlot Database - <http://www.ag.ndsu.nodak.edu/dickinso/staff/radtke/index.html>. This database doesn't designate any operation as AFO or CAFO. The attribute tables summarize the results of GIS operations. Therefore, this database cannot be used as an assessment tool. It is intended to evaluate the GIS capabilities in waste management/water quality area.
- Natural Resources Conservation Service – <http://www.nd.nrcs.usda.gov/> - No information identified

#### South Dakota

- EPA Enforcement & Compliance History Online (ECHO) - 92 facilities identified (See Download)
- DENR – CAFOs - <http://denr.sd.gov/des/sw/cafo.aspx> - No information identified
- Department of Agriculture - <http://sdda.sd.gov/> - No information identified
- Association of Conservation Districts - <http://www.sdconservation.org/> - No information identified
- Natural Resources Conservation Service – <http://www.sd.nrcs.usda.gov/> - No information identified
- Farm Bureau - <http://www.sdfbf.org/> - No information identified

#### Utah

- EPA Enforcement & Compliance History Online (ECHO) - 60 facilities identified (See Download)
- DEQ – UPDES Permits - [http://www.waterquality.utah.gov/UPDES/updes\\_f.htm](http://www.waterquality.utah.gov/UPDES/updes_f.htm) - No information identified
- Department of Agriculture and Food – CAFOs - <http://ag.utah.gov/divisions/conservation/cafo.html> - No information identified
- Natural Resources Conservation Service – <http://www.ut.nrcs.usda.gov/> - No information identified
- Farm Bureau - <http://utfb.fb.org/> - No information identified

#### Wyoming

- EPA Enforcement & Compliance History Online (ECHO) - 54 facilities identified (See Download)
- The Wyoming Department of Environmental Quality (DEQ) - [http://deq.state.wy.us/wqd/wypdes\\_permitting/WYPDES\\_CAFO/CAFO.htm](http://deq.state.wy.us/wqd/wypdes_permitting/WYPDES_CAFO/CAFO.htm) maintains a listing of WYPDES CAFO Permits (Notes Permit Expiration Date) at [http://deq.state.wy.us/wqd/wypdes\\_permitting/WYPDES\\_CAFO/Downloads/WYPDES%20CAFO%20Permit%20Expiration%20Dates.pdf](http://deq.state.wy.us/wqd/wypdes_permitting/WYPDES_CAFO/Downloads/WYPDES%20CAFO%20Permit%20Expiration%20Dates.pdf) (File Downloaded). This list was checked against the WYPDES CAFO permit list. Two CAFOs were listed on the permit list but were not in ECHO, and there were three CAFOs in ECHO that were not in the permit list. It is unknown which list is more accurate.
- DEQ NonPoint Source Feedlot Management Program - No information identified



- Department of Agriculture - <http://wyagric.state.wy.us/> - No information identified
- Natural Resources Conservation Service – <http://www.wy.nrcs.usda.gov/> - No information identified.
- Farm Bureau - <http://www.wyfb.org/> - No information identified
- Wyoming Business Council Ag Directory - <http://www.wyomingbusiness.org/agribusiness>  
Provides Google Map of Ag Businesses in the State, and identifies 175 facilities with the classification of Livestock/Farm Animals and provides address and contact information for the facility.

## *EPA Region 9*

### Arizona

- A search of ECHO identified 14 permitted facilities. No other info found.

### California

- ICIS lists only permitted CAFOs in CA, while PCS is listing both CAFOs and AFOs. Many regions in CA have permitted CAFOS through waste discharge requirements instead of NPDES permits, so the number of permitted facilities is underestimated.
- Also found a list of all animal feeding operations regulated in California through CIWQS.

### Hawaii

- Guidance provided on the state Department of Health Website states that as of January 2010, there are no CAFOs in Hawaii. See page 3 of <http://hawaii.gov/health/environmental/environmental/water/wastewater/pdf/livestock.pdf>.
- EPA Region 9 indicates that there are 2 CAFOs in Hawaii. See <http://www.epa.gov/region9/animalwaste/hawaii.html> (last updated June 2011)

### Nevada

- Could not locate any site specific information about CAFOs in Nevada. A search of EPA ECHO indicated that there are four permitted CAFOs in NV.

## *EPA Region 10*

### Alaska

- Could not locate any CAFO information for Alaska.

### Idaho

- Could not locate any CAFO information for Idaho. EPA is the permitting authority, but works in conjunction with the Department of Agriculture.

### Oregon

- Found information for only a number of CAFOs in Oregon that were listed under a public notice. Whatever other CAFOs that are covered under the General Permit could not be identified.

- The Department of Agriculture is the authorized agency to implement the NPDES discharge program for CAFOs, so ICIS/PCS data were not available.

#### Washington

- Could not locate any CAFO information for Washington. The general CAFO permit is part of a split livestock program covered by an MOU with the Department of Ecology and Department of Agriculture. Ecology administers the permit and Agriculture provides inspections and technical assistance to CAFO permitted facilities and to dairies covered under the Dairy Nutrient Management Act.

#### Comparison of CAFO Data Sources

The following table compares the number of animal facilities found for each state through the USDA (CAFO numbers from Ag Census as provided by USDA), PCS, ICIS, and through the general internet search is provided below.

State	USDA			EPA ICIS	EPA PCS	Internet Search
	Total	Large	Medium			
Alabama	2,336	564	1,772	660	709	471
Alaska	1	1	0			N/D
Arizona	102	80	22		14	14
Arkansas	2,903	776	2,127			301
California	1,870	1,025	845	13	158	190
Colorado	350	196	154	91	42	213
Connecticut	31	7	24			N/D
Delaware	571	73	498			382
Florida	256	75	181	57	72	58
Georgia	2,477	1,082	1,395	43		N/D
Hawaii	15	4	11			N/D
Idaho	429	223	206	103		N/D
Illinois	1,377	512	865	23	17	N/D
Indiana	1,403	635	768	2	23	86
Iowa	6,187	2,498	3,689			144
Kansas	707	293	414			N/D
Kentucky	731	238	493		38	N/D
Louisiana	325	122	203			N/D
Maine	40	6	34			N/D
Maryland	633	150	483	7		554
Massachusetts	18	2	16			N/D
Michigan	797	229	568	3	16	233
Minnesota	3,185	1,141	2,044	11	4	N/D
Mississippi	1,597	580	1,017			43
Missouri	1,240	428	812	200		N/D



State	USDA			EPA	EPA	Internet
Montana	147	49	98	106		172
Nebraska	1,741	675	1,066	496		N/D
Nevada	38	9	29	3		N/D
New Hampshire	24	2	22			N/D
New Jersey	21	6	15			6
New Mexico	180	146	34	46		276
New York	679	159	520	1,055		N/D
North Carolina	3,921	1,625	2,296		1,159	2,710
North Dakota	133	49	84		3	42
Ohio	1,138	345	793		24	N/D
Oklahoma	787	177	610	163		9
Oregon	228	74	154			N/D
Pennsylvania	1,481	349	1,132	60		N/D
Rhode Island	2	1	1			N/D
South Carolina	647	272	375			N/D
South Dakota	859	307	552	2		94
Tennessee	633	102	531	16	56	544
Texas	1,602	691	911	625		595
Utah	207	69	138	56		63
Vermont	171	29	142			N/D
Virginia	877	188	689			N/D
Washington	355	146	209			N/D
West Virginia	266	68	198			N/D
Wisconsin	1,525	250	1,275	200		227
Wyoming	111	28	83			46
Totals	47,354	16,756	30,598	4,041	2,335	7,473

Note: N/D = No Numeric or Site-Specific Data